

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

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MAY 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:)

Implementation of the Local)
Competition Provisions in the)
Telecommunications Act of 1996)

CC Docket No. 96-98

SOURCE MATERIALS
Volume 7 of 10

TAB 63 [Spring Complaint] through
TAB 69 [TCG Comments]

TO
PETITION FOR
FOR EXPEDITED RULEMAKING

BY
LCI INTERNATIONAL TELECOM CORP.
and
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION (CompTel)

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TABLE OF SOURCES AND SOURCE CONVENTIONS* MAY 30 1997

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<u>TAB</u>	<u>Convention</u>	<u>Source</u>
63	Sprint Complaint:	Complaint Filed by Sprint Against PacBell Before the California Public Utilities Commission (Feb. 20, 1997)
64	Stankey:	Deposition of John T. Stankey Before the California Public Utilities Commission, Case No. 96-12-026 (Apr. 8, 1997)
65	Strow:	Prefiled Direct Testimony of Julia Strow on Behalf of Intermedia Communications Inc. Before the Georgia Public Service Commission, Docket No. 6863-U (Feb. 13, 1997)
66	Sywenki:	Statement of Peter N. Sywenki on Behalf of Sprint Communications Company L.P. Before the Pennsylvania Public Utilities Commission, Docket No. M-960840 (Mar. 10, 1997)
67	Tamplin:	Direct Testimony of James A. Tamplin, Jr. on Behalf of AT&T Communications of the Southern States, Inc. Before the Georgia Public Service Commission, Docket No. 6863-U (Feb. 14, 1997)
68	Tavidian:	Declaration of Betty Tavidian on Behalf of MCI Telecommunications Corporation Before the Pennsylvania Public Utility Commission, Docket No. M-960840 (Mar. 10, 1997)
69	TCG Comments:	Comments of Teleport Communications Group Inc. Before the Michigan Public Service Commission, Case No. U-11104 (Jan. 9, 1997)

* Other than the few items marked with an (*), the cited pages from these materials are assembled and presented in separate volumes with an index for convenient reference (where the documents are lengthy, only the cited pages appear). These source materials may be obtained upon request in their abbreviated or in complete form. The items marked with an (*) are omitted from the collection of source materials because they are generally available or have been filed previously with or promulgated by the Commission.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

NewTelco, L.P., d/b/a Sprint)
Telecommunications Venture (U-5552-C))
and)
Sprint Communications Company L.P.)
(U-5112-C),)
Complainants)
v.)
Pacific Bell (U-1001-C),)
Defendant.)

Case No. C.97-02-021

COMPLAINT

Sprint Communications Company L.P. (U-5112-C) ("Sprint Communications") and NewTelco, L.P., d/b/a Sprint Telecommunications Venture (U-5552-C) ("STV") (together "Sprint" or "Complainants") bring this Complaint against Pacific Bell (U-1001-C) ("Pacific" or "Defendant") pursuant to Sections 9-11 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California ("Commission").

In April 1996, Sprint commenced its efforts to enter the local market in California by conducting technical trials with Pacific to test Pacific's resale product offering. While Sprint encountered significant problems during testing, including Pacific's inability to generate and transmit to Sprint accurate and timely Call Detail Records necessary for Sprint to bill its end users, minimally acceptable business process performances at extremely low volumes were eventually achieved. This enabled Sprint to finally begin offering local service in

California on December 2, 1996, by reselling Pacific's service in the San Diego service area.

Since that time, however, Pacific has failed to process the modest number of customer orders that Sprint has submitted in a timely and accurate manner. Pacific's level of service has been, and continues to be, unsatisfactory.

Pacific's chronic performance failures with respect to local service orders has caused significant problems for Sprint's customers and has frustrated the expansion of Sprint's California local service offering. Pacific's conduct creates the risk of customer dissatisfaction with Sprint which Sprint is unable to mitigate given that dial tone and access to customer records are controlled by Pacific. Because Pacific chronically has failed to process orders in a timely and accurate fashion, Sprint cannot guarantee customers that they will in fact be transferred to Sprint, or receive new service installation under Sprint's brand, within committed time frames. Further, because of Pacific's failure to confirm installation or transfer of accounts, Sprint also cannot validate that service has been switched over or initiated so that it can begin billing the customer.

The Parties

1. STV and Sprint, the complainants herein, are each Delaware Limited Partnerships. STV is authorized to provide both facilities-based and resold local exchange service as a competitive local carrier in the service territories of Pacific and GTE California Incorporated ("GTEC"). STV markets local exchange service under the "Sprint" brand name. Sprint Communications is authorized by the Commission to provide interLATA and intraLATA telecommunications services throughout the state. Sprint Communications markets and sells STV's local telecommunications services in California under a sales agency agreement

with STV to. Sprint Communications' address and telephone numbers are as follows:

Sprint Communications Company L.P.
8140 Ward Parkway
Kansas City, MO 64114
(913) 624-6000

STV's address and telephone numbers are as follows:

Sprint Telecommunications Venture
4900 Main Street
Kansas City MO 64114
(816) 559-2506

All pleadings, correspondence and other communications concerning this complaint should be directed to:

Renée van Dieën
Attorney
Sprint Communications Company L.P.
1850 Gateway Drive, 7th Floor
San Mateo, CA 94404
Telephone: (415) 513-2714
Fax: (415) 513-2737

2. Pacific, the Defendant herein, is a corporation organized and existing under the laws of the State of California. It is the largest local exchange carrier ("LEC") authorized by the Commission to provide intraLATA and local exchange services within various geographical boundaries as identified in its tariffs on file with the Commission. Pacific's address and telephone number are as follows:

Pacific Bell
140 New Montgomery Street
San Francisco, CA 94105
(415) 542-9000

Jurisdiction

3. Sections 701, 1702 and 1707 of the Public Utilities Code vest the Commission with broad authority to proscribe any breach of the Public Utilities Code, prior Commission decisions, or applicable provisions of federal or state law. Section 701 provides the broad grant of authority:

"The commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."

4. Under Sections 1702 and 1707, the Commission has jurisdiction over complaints by public utilities which set forth "any act or thing done or omitted to be done by any public utility [which is] in violation of any provision of law or of any order or rule of the commission." Further, the Commission has both the power and the obligation to assess and respond to competitive considerations in regulating utilities, *Pacific Telesis Group*, D.93-11-011; *Northern California Power Agency v. PUC*, (1971) 5 Cal. 3d 370.

Sprint's Authority To Provide Resold Competitive Local Service

5. NewTelco, L.P., d/b/a Sprint Telecommunications Venture ("STV") was granted a certificate of public convenience and necessity by the Commission to provide facilities-based local exchange services in California pursuant to Decision 95-12-057 and local exchange services via bundled resale in Decision

96-02-072. Sprint Communications entered into a sales agency agreement with STV to market and sell competitive local telephone service in California on behalf of STV.

6. In April, 1996, Pacific, in cooperation with Sprint, sought and received authority from the Commission to conduct technology tests of Pacific's tariffed resale local service. Pursuant to the authority granted to Pacific to conduct such tests in Resolution T-11083, Sprint and Pacific began a technical trial of Pacific's resale local service to selected residential and business customers in Pacific Bell's service territory in California

7. On November 27, 1996, STV, pursuant to authority granted in D.96-02-072, filed with the Commission, effective December 2, 1996 a tariff for the provision of resold local exchange service limited initially to residential and business customers of the San Diego and San Luis Obispo LATAs served by Pacific and GTEC.

8. At all times relevant herein, STV obtained local exchange services for resale from Pacific from Pacific's Tariff SCHEDULE CAL. P.U.C. No. 175-T, Section 18, Services for Resale.

**Pacific Has Chronically Failed To Process Firm Order Confirmations
And Completion Notices In A Timely And Accurate Manner**

9. A serious problem with Pacific's processes for migrating existing local service from Pacific to CLCs and installing new service for CLC customers concerns the operation of its Local Interconnection Service Center ("LISC"). Upon information and belief, Sprint alleges that Pacific's LISC is the center responsible for handling all orders from CLCs to migrate (transfer) existing retail customers from Pacific to the CLC or to install new resold local service.

10. Sprint submits orders for migration of existing service or installation of new services to Pacific via transmission of a paper order via facsimile pursuant to procedures established in Pacific's CLC Handbook.¹ Sprint's order contains a Purchase Order Number ("PON") to identify the order, the specific features ordered, the number reserved and the requested installation date.

11. After receipt of a CLC's order, Pacific issues a Firm Order Confirmation ("FOC") to confirm that a migration or new service installation order has been received and that the requested due date for the transfer or initiation of service is available. Once Pacific has completed the customer migration or initiation of service, it issues a completion notice, confirming that the CLC has become the customer's local service provider.

12. Since the beginning of Sprint's service offering on December 2, 1996, Pacific has grossly and repeatedly failed to meet its obligation to process Sprint's orders in a way that provides prospective Sprint customers with the same quality and level of service afforded to Pacific's own end users. These service problems have occurred despite the fact that Sprint's order volumes have been at comparatively low levels, well below the forecasts Sprint has provided in advance to Pacific.²

13. Pacific has systematically frustrated Sprint's attempts to serve its customers by failing to process migration and new service orders, including providing Sprint with FOCs and completion notices, in a timely and accurate manner. Without a FOC, Sprint cannot confirm its customers' due date for service or even that an order has been received by Pacific. Expedient receipt

¹ Sprint is working with Pacific to implement Network Data Mover ("NDM"). NDM will transmit an electronic image of the order to Pacific in lieu of the paper order transmitted by facsimile. In all other respects, the order processing will remain the same.

² By way of example, for the period from January 1, 1997 to February 14, 1997, only an average of 65% of the forecasted total orders were actually submitted to Pacific's LISC by Sprint.

of the FOC is also required so that Sprint can provide its customers with timely delivery of its fulfillment materials, including customer service and product information. A FOC is also required so that Sprint can contact its customers if rescheduling of the previously committed to service due date is required. Sprint must also receive a completion notice from Pacific before it can confirm that service has been successfully installed and begin billing the customer. This is particularly crucial with respect to new customers who do not have service prior to Pacific's processing of the order. Without a timely, accurate FOC and completion notice, Sprint cannot confirm that its service date commitment will be met or that service has actually been installed. Absent this information, Sprint may appear inept and unresponsive to the customer.

14. On several occasions prior to Sprint's local market entry in the San Diego area in December, 1996, Sprint requested information from Pacific regarding the daily CLC ordering capacity of its LISC and its ability to process Sprint's orders in a timely and accurate manner. Ms. Alice Martinz, Pacific's Director, Third Party Billing, Customer Sales & Support, declined to provide any specific information regarding LISC capacity to Sprint. However, Ms. Martinz repeatedly assured Mr. Paul Wescott, Sprint's Director, Local Market Development, that Sprint need not be concerned and that Pacific would take all necessary steps, including increasing LISC staffing levels, to insure timely and accurate processing of Sprint's resold local service orders, including FOCs and completion notices.

15. During preparations for implementation of Sprint's local service market launch, Pacific committed that Sprint would receive FOCs no later than the close of business the day after Pacific's receipt of Sprint's orders faxed before 3 p.m. each business day. Pacific also committed that Sprint would receive a completion notice by close of business the day after an order was

completed by Pacific, e.g. the migration of an existing Pacific customer to Sprint's resold service or the installation of new resold service.³

16. On December 2, 1996, Sprint began offering resold local service to business and residential customers in San Diego. Although Pacific's resale services are available throughout Pacific's service territory, Sprint purposely limited its preliminary entry to the San Diego area to volume "stress test" delivery of service before statewide roll out.

17. Almost immediately, Pacific's delivery of FOCs and completion notices to Sprint was not being accomplished within the agreed upon time frames. On December 10, 1996, a total of 52 FOCs and completion notices were outstanding. By December 17, 1996, a total backlog of 192 FOCs and completion notices had built up. During this same period, Sprint also received FOC and completion notices for other CLCs. As many as 40 FOCs and completion notices intended for other CLCs were received in a 2 day period.

18. Upon information and belief, Sprint alleges that Pacific processes the orders it receives manually and that they are not electronically and automatically entered into the requisite Pacific ordering systems. Regardless of whether a CLC order is received by Pacific via facsimile or NDM, Pacific's LISC representatives must retype the order so that it can be entered into Pacific's retail ordering system known as "SORD". Although orders received by Pacific via NDM are entered automatically into its "CLEO" database, manual intervention by a LISC service representative is still required to effect entry of the order into the SORD order provisioning system. In contrast, orders for

³ The 24 hour processing time for FOCs and completion notices is only applicable when Sprint submits orders via facsimile. Once Sprint begins to submit orders via NDM, it expects Pacific to provide FOCs within a 4 hour time frame. Pacific is obligated to provide Sprint Communications FOCs within 4 hours as provided in Section A.1.3 of Attachment 17 of the Interconnection Agreement between Sprint Communications and Pacific.

Pacific's own retail customers are entered directly into Pacific's ordering system without the need for additional manual intervention or the requirement of a FOC to confirm that an order has been received and that the requested due date will be met.

19. On December 11, 1996, Mr. George Head, Sprint's Vice President Local Market Integration, expressed his concerns regarding Pacific's failure to provide accurate and timely FOCs and completion notices during a phone call with Mr. Jerry Sinn, Pacific's Vice President Customer Services. In response to Mr. Head's concerns, Mr. Sinn indicated that Pacific's objective was to provide Sprint with 95% of FOCs and completion notices within the agreed upon 24 hour time frames. Mr. Sinn also indicated that the problems with Pacific's internal processes causing the unacceptable delays in FOCs and completion notices would be resolved no later than January 1, 1997.

20. On December 13, 1996, Mr. Head, reiterated his concerns regarding Pacific's chronically late and inaccurate FOCs and completion notices in a telephone call to Mr. Sinn. Mr. Sinn reconfirmed Pacific's commitment to its January 1, 1997 deadline for the 24 hour FOC and completion notice objectives. Mr. Sinn also represented that Pacific would add extra staff, including an evening crew, in order to meet its commitments.

21. On December 18, 1996, Mr. Head wrote to Mr. Sinn to express Sprint's continued dissatisfaction with Pacific's provisioning processes and performance. Mr. Head noted that Pacific was not meeting its commitment of a 24 hour response time for FOCs and completion notices and that it was in fact "falling further behind in contrast to its improvement commitments". A copy of that letter is attached as Attachment "A".

22. In a telephone conversation with Mr. Head on December 19, 1996, Michael Mallen, Pacific's Vice President, Industry Markets Group, indicated that

Pacific was staffing its LISC to meet a load of 2000-3000 orders per day by January 1, 1997. Mr. Mallen also indicated that Pacific was estimating approximately 1.5 million orders (3000-4000 orders/day) for 1997.

23. During the period from December 17, 1996 until January 14, 1997 numerous telephone conversations took place between Mr. Head and Mr. Sinn where Mr. Head continued to express Sprint's concerns with Pacific's chronic backlog of FOCs and confirmation notices and its inability to meet its commitment to process 95% of FOCs and completion notices within a 24 hour period. During this same period, Mr. Sinn gave repeated assurances that the backlog would be cleared and that the 24 hour commitment would be met.

24. Sprint has assisted in every possible way in helping to identify and resolve problems regarding uncompleted orders. At the same time that Sprint pursued its concerns regarding the continuing backlog of FOCs and completion notices with Pacific executives, Sprint and Pacific working teams conducted daily conference calls in an effort to resolve issues including outstanding and lost orders. These calls between the Sprint and Pacific working levels continue to take place every business day on an ongoing basis.

25. Notwithstanding Pacific's commitments to improve its processes and to provide timely and accurate FOCs and completion notices, a total of 296 FOCs and completion notices were outstanding on December 26, 1996. On December 30, 1996, a backlog of 337 FOCs and completion notices existed.

26. In a telephone conversation on December 31, 1996, with a total backlog of 220 FOCs and completion notices, Mr. Sinn and Mr. Mallen once again committed to Mr. Head that all of Sprint's orders would be current by the end of January 1, 1997. However, on January 2, 1997, Pacific had a backlog of 274 FOCs and completion notices. On January 14, 1997, the total backlog had increased to 303 FOCs and completion notices outstanding.

27. In response to Sprint's concerns, Pacific tracked its own performance in issuing FOCs within the 24 hour period it had committed to. From December 16, 1996 to February 6, 1997, Pacific's own data shows that only an average of 11.4% of FOCs were processed in accordance with these time guidelines. On 12 of the 32 working days in this period, or on almost 38% of the days during this period, no FOCs were processed within the 24 hour time period Pacific had committed to.

28. In a telephone call on January 17, 1997 with Mr. Gary Owens, Sprint's Vice President Operations - National Integrated Services, Ms. Elizabeth Fetter, Pacific's President, Industry Markets Group, agreed that all backlogged FOCs and completion notices would be brought up to date by January 18, 1997. However, as noted in an e-mail letter from Mr. Owens to Ms. Fetter dated January 21, 1997, there were still close to 100 orders overdue on January 20, 1997. A copy of that letter is attached as Attachment "B".

29. On January 21, 1997, Ms. Fetter acknowledged in an e-mail letter to Mr. Owens, that Pacific is "continuously challenged by the complexity and volume in our service center while we introduce mechanization into what is now predominantly a manual process". She reiterated that Pacific "will do whatever it takes to make this business successful". A copy of this letter is attached as Attachment "C".

30. Sprint has made every effort to work together with Pacific to resolve the ongoing order processing issues. Sprint established a joint Quality Team with Pacific Bell which met at Pacific Bell offices on January 23rd and 24th, 1997, to discuss Pacific's order processing problems. Sprint actively participated with Pacific, committing its own resources in an effort to work together with Pacific to identify the causes of the problems and to establish process flows and control points.

31. The joint Quality Team agreed to implement the new procedures established at the January 23rd and 24th meetings by January 27, 1997. However, Pacific did not implement the necessary changes in a timely and complete manner and allowed the backlog of order confirmations to return to unacceptable levels. In a concentrated effort by both Sprint and Pacific during the Quality Team meetings, the backlog was reduced considerably from 109 outstanding orders on January 23, 1997 to only 33 on January 24, 1997. However, on January 29, 1997, a total of 179 FOCs and completion notices were outstanding. On January 31, the total backlog had increased to 219.

32. In a letter dated February 5, 1997, Mr. Owens again expressed his concerns to Ms. Fetter regarding Pacific's repeated failure to meet its obligation to process Sprint's orders in a timely and accurate manner. Mr. Owens stated that "FOCs and Completion Notices are chronically late with a daily backlog of 150-200 orders", causing "Sprint to miss customer commitments on due dates and unacceptably delay[ing] the delivery of product literature and initial invoices to customers." A copy of this letter is attached as Attachment "D".

33. On February 11, 1997, in the course of a meeting between Pacific and Sprint employees to address Sprint's ongoing concerns regarding Pacific's order processing processes, Mr. Mark Turner, Pacific's Director, Sprint Account Team, informed Mr. Wescott that Pacific's LISC can currently only handle 1200 CLC orders per business day. This is far short of the promised levels and certainly not sufficient to meet the CLC industry's requirements.

34. Sprint believes that Pacific has not adequately staffed its LISC operation to handle orders from the CLC industry and has not adequately designed Sprint-specific processes to ensure that Sprint's customers can be served "at parity" compared to the Pacific Bell retail customers. This is greatly exacerbated by Pacific's manual order processing system. Although Sprint

requested LISC capacity and staffing level information, Pacific has refused to provide this information. Instead, Pacific assured Sprint that it would take all necessary steps, including increasing staffing levels, to process Sprint's orders within the time frames committed. Clearly, based on the backlog of only Sprint's orders, they have not. Indeed, with the exception of the time period of the Sprint initiated joint Quality Team meetings, Sprint has consistently experienced backlogs of 150-200 FOCs and completion notices during the months of January and February, 1997. As of February 18, 1997, a total of 188 FOCs and completion notices were outstanding.

35. In addition to chronic delays in processing FOCs and completion notices, Pacific also continues to have serious difficulties in processing Sprint's orders with the required level of accuracy. The FOCs and completion notices received by Sprint routinely contain errors which have a serious impact on Sprint's ability to provide service. For example, during February 10, 1997 through February 14, 1997, approximately 9% of the completion notices received by Sprint contained errors. These errors included incorrect customer phone numbers, missing or incorrect vertical features and missing or incorrect customer interexchange carrier ("PIC") selections. Each error requires that Sprint engage in time consuming telephone conversations with Pacific so that the details of completion notices can be verified and errors corrected. The errors reflected in the completion notices have a direct impact on the service provided to Sprint's customers. Customers who fail to receive an ordered feature such as Caller Id, or who receive features that they did not request, then contact Sprint to complain. The perception that Sprint cannot process customers' orders accurately and in accordance with their expectations, causes further damage to Sprint's reputation and hampers its ability to expand its service offering.

36. In addition to the errors routinely reflected in completion notices, FOCs received from Pacific also routinely contain misprinted or incorrect due dates and incorrect customer phone numbers. The delays and customer dissatisfaction that result from these processing errors, further inhibit Sprint's ability to compete in the local California market.

37. Pacific's ability to process customer migration and new orders for resold service through its LISC bottleneck in a timely and accurate manner is woefully inadequate. The level of quality provided by Pacific in its CLC order provisioning for resold services does not provide CLCs parity with the service levels provided to its own retail customers.

38. In order for higher throughput to be achieved, it is critical that electronic interfaces be implemented. It is also critical that Pacific Bell implement Sprint - specific work processes and focused management ownership of this issue. Electronic processing will not only reduce or eliminate the need for manual intervention, thereby significantly speeding up the order provisioning process, it should also vastly improve the accuracy of and reduce the error rates of Pacific's LISC operations.

39. Given Pacific's repeated failure to meet its commitments to correct its systems and process orders in a timely manner, Sprint has no confidence that it will meet these commitments in the future. These problems have frustrated Sprint in expanding its mass marketing in the San Diego area and from expanding its local offering statewide. As discussed above, Pacific's order processing abilities have deteriorated rather than improved over time. Given this pattern, Pacific's LISC capacity problems will only worsen should new CLCs enter the market or should existing CLCs expand their service offerings.

**Pacific's Processes For Handling Customer Migration To CLCs
Reselling Pacific's Services Are Anti-Competitive And Discriminatory And
Effectively Preclude Sprint From Entering The Local Market In California**

40. Sprint incorporates by reference, as if fully set forth herein, the allegations contained in paragraphs 1-39.

41. Public Utilities Code Section 709.5 provides that all telecommunications markets subject to the Commission's jurisdiction be opened to competition not later than January 1, 1997 and that competition in telecommunications markets be fair. Pacific's processes for handling customer migrations and new service orders for CLCs reselling Pacific's services violate Section 709.5. Pacific's ordering processes, as described above, significantly limit the number of existing customers that can be transferred or new service installations that can be effected for CLCs in a resale environment. Pacific's practices virtually assure that no meaningful or fair competition can begin until Pacific is able to process the CLC industry's orders in a timely and accurate manner. Currently Pacific is unable to process minimal order volumes, much less the volumes required for meaningful competition.

42. Pacific's resale order processes also violate Public Utilities Code Section 453(a), which prohibits a public utility from granting "any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage." Pacific's CLC order provisioning processes ensure that CLCs and their customers will not receive the same level and quality of service that Pacific and its own retail customers enjoy. The delays and errors inherent in Pacific's resale order provisioning processes prejudice all CLCs and subject them to a disadvantage compared to the level of service Pacific provides to itself and its own end user customers.

43. In Decision 95-07-054, the Commission ruled that:

"It is the policy of the Commission that all telecommunication providers shall be subject to appropriate regulation to safeguard against anti-competitive conduct" (Appendix A, Rule 1.D.).

By putting in place practices that severely limit the number of CLC customer migrations or new service installations, Pacific is engaging in anti-competitive conduct in violation of Decision 95-07-054. Customers whose orders are delayed, are inaccurate or incomplete or not processed at all, will in many cases, fault the CLC and return to Pacific. Indeed, after such frustrating experiences these customers may never be open to switching to a CLC, no matter how attractive the offer of service. Pacific's actions totally contravene the Commission's policy of fair competition. In addition to delaying and limiting Sprint's local market entry, Pacific's actions also have the effect of damaging Sprint's reputation and harming its valuable brand name.

44. Pacific's processes for handling customer migration to CLCs reselling Pacific's service constitute a violation of the Commission's Decision 96-02-072. The Commission stated that::

"Adequate service ordering interfaces are necessary to enable CLCs to offer a quality of service which is competitive with that of the LECs" (mimeo, p.32).

and adopted the following rule for LEC/CLC arrangements:

"LECS shall put into place an automated on-line service ordering and implementation scheduling system for use by CLCs" (Appendix E, Rule 8.C.).

As outlined above, Pacific's processes do not "enable CLCs to offer a quality of service which is competitive with that of the LECs." In fact, Pacific's processes guarantee that CLC's resold service will be of inferior quality to that of Pacific. Pacific's manual handling of orders at the LISC is also in direct violation of the above cited rule. Although Pacific has had notice of the automated on-line systems required by Decision 96-02-072 for almost a full year, it has failed to implement the necessary systems and to eliminate the need for manual intervention.

45. Pacific's order provisioning processes for CLCs reselling Pacific's services constitute a violation of the Telecommunications Act of 1996 ("the Act") and the implementing regulations of the Federal Communications Commission ("FCC").

46. Section 251(c)(4)(B) of the Act imposes the duty on all incumbent LECs, including Pacific, not to impose unreasonable or discriminatory conditions or limitations on the resale of telecommunications service. Section 51.603 of the FCC's regulations provides:

"(a) A LEC shall make its telecommunications services available for resale to requesting telecommunications carriers on terms and conditions that are reasonable and non-discriminatory.

(b) A LEC must provide services to requesting telecommunications carriers for resale that are equal in quality, subject to the same conditions, and provided within the same provisioning time intervals that the LEC provides these services to others, including end users."

(47 CFR Sec. 51, et. seq.)

Pacific's processes, as detailed above, are in clear violation of the Act and the FCC's regulations. Pacific is imposing discriminatory conditions on the resale of its service, is not providing service to CLCs equal in quality to the service

provided its own end users, and is not provisioning service to CLCs in the same time intervals as it provides its own end users.

47. Pacific's resale order provisioning processes also violate Section 251(c)(3) of the Act, which imposes the duty on all incumbent LECs to provide nondiscriminatory access to network elements on an unbundled basis. The FCC has found that a LEC's operating support systems for pre-ordering, ordering and provisioning, among others, constitute such unbundled network elements (47 CFR § 51.313(c)). In this regard the FCC stated:

"Obviously, an incumbent that provisions network resources electronically does not discharge its obligation under Section 251(c)(3) by offering competing providers access that involves human intervention, such as facsimile-based ordering." *First Report and Order and Memorandum Opinion and Order*, Docket No. 96-98, ¶523.

Pacific's manual resale order handling process clearly contravenes Pacific's duty under Section 251(c)(3) of the Act.⁴¹

Relief Requested

WHEREFORE, Complainants request that the Commission:

(1) Order Defendant to comply with Public Utilities Code bb 453 and 709.5; Decisions 95-07-054 and 96-02-072; and with bb 251(c)(3) and (4)(B); and with 47 CFR bb 51.313(c) and 51.603. In particular, Pacific should be required to:

(a) Immediately eliminate all backlog of FOCs and completion notices and honor its commitment to issue a FOC within 24 hours of

receipt of an order from Sprint to migrate a customer or initiate new service and to issue a completion notice within 24 hours of migration or service installation and once Sprint submits orders via NDM, provide FOCs to Sprint within 4 hours. ⁴

(b) Immediately devote sufficient resources to the operation of its LISC, including the development of true electronic interfaces, and continue to do so throughout 1997, so that all orders from CLCs for the migration of customers and the installation of new service can be handled on a timely basis, i.e., within the same time frame as Pacific provides service to its own end users, and with the same reliability as Pacific provides service to its own end users.

(c) Immediately implement the procedures and daily process controls and institute the Sprint-specific work process procedures and dedicate LISC personnel to the Sprint team as established in the joint Quality Team meetings held by Sprint and Pacific on January 23rd and 24th, 1997.

(d) Immediately implement procedures to ensure that FOCs and completion notices for Sprint's customers are timely and accurate in all respects and that the service and features provided to Sprint's customers precisely match those contained in the service order provided by Sprint to Pacific.

(2) Immediately provide Sprint with the same level and quality of service as it provides to itself for service ordering, customer migrations and new service

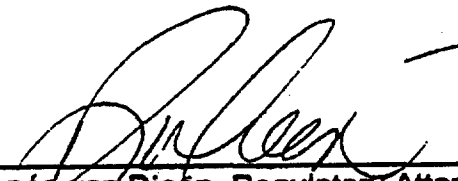
⁴ The 24 hour processing time for FOCs and completion notices is only applicable when Sprint submits orders via facsimile. Once Sprint begins to submit orders via NDM, it expects Pacific to provide FOCs within a 4 hour time frame. Pacific is obligated to provide Sprint Communications FOCs within 4 hours as provided in Section A.1.3 of Attachment 17 of the Interconnection Agreement between Sprint Communications and Pacific. At this point in time Pacific has not offered a working NDM interface allowing Sprint to send orders via this standard. (See Attachment "E".)

orders to enable Sprint to provide its customers with service as efficiently as Pacific provides service to its own retail customers.

(3) Order such other and further relief as appears just and reasonable under the circumstances.

Dated this 20th day of February, 1997 at San Mateo, California.

Respectfully submitted,



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Facsimile: 415-513-2737

VERIFICATION

I, Gary R. Owens, am an officer of Sprint Communications Company L.P., the Complainant herein, and am authorized to execute this verification on its behalf. The statements in the foregoing Complaint are true of my own knowledge, except as to matters which are therein stated as information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed by me on February 19th, 1997, at Overland Park, Kansas.



Gary R. Owens

ATTACHMENT A



George V. Head
Vice President
Local Market Integration
7301 College Blvd
Overland Park KS 66210
KSOPKV0203

Jerry Sinn
Vice President
Customer Services
Pacific Bell
370 Third St #714E
San Francisco CA 94105

December 18, 1996

Jerry:

The purpose of my letter is to express Sprint's continued dissatisfaction with Pacific Bell's provisioning process and performance. As you and I discussed on two occasions last week, and in several discussions between our teams, Pacific Bell is not meeting its commitment of 24 hour response on Firm Order Confirmation (FOC) and completion notices. Our analysis indicates that Pacific Bell is falling further behind in contrast to its improvement commitments. Your process is broken.

As agreed last Friday, Sprint and Pacific Bell are continuing to have daily conference calls to verify information exchange. Documentation from these daily meetings leads us to conclude that your process is not yet in control. As of 12-17-96, 111 completion notices and 83 FOC confirmations were outstanding. As of 12-13-96, Sprint continued to receive FOC and completion notices intended for MCI and other CLECs. Sprint logically concludes that its notices may, in fact, be erroneously sent to other CLECs by Pacific Bell.